

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 108 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF INCOME TAX

Versus

M J DOSHI

Appearance:

Mr.Mihir Joshi for MANISH R BHATT for Petitioner

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE KUNDAN SINGH

Date of decision: 28/04/98

ORAL JUDGEMENT

(Per R.K.Abichandani,J)

The Income-tax Appellate Tribunal has referred the following question which pertains to the assessment year 1988-89 for the opinion of this Court

under section 256 (1) of the Income-tax Act, 1961.

"Whether the Appellate Tribunal is right in law and on facts in directing the ITO to allow deduction of 40% of the incentive bonus as expenses incurred for earning the incentive bonus which was disallowed by the ITO on the ground that incentive bonus was part of salary ?"

2. Identical question came up for our consideration in ITR No. 54 of 1993 and other cognate matter with which the entire group was argued and for the reasons given by us in our judgment dated 27.4.1998, we hold that the Tribunal was right in holding that the expenses incurred by the assessee in earning the incentive bonus were liable to be deducted from the incentive bonus received by the assessee from the LIC only to the extent of reimbursement of expenses actually incurred upto the maximum limit of 30% of the incentive bonus earned by the assessee. The question referred to us is accordingly answered in the affirmative against the revenue and in favour of the assessee. The Reference stands disposed of with no order as to costs.

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